

## **IC 29-3-9**

### **Chapter 9. Matters Other Than Appointment**

#### **IC 29-3-9-1**

##### **Delegation of powers; exercise of powers under power of attorney**

Sec. 1. (a) By a properly executed power of attorney, a parent or a guardian (other than a temporary guardian) of an incapacitated person or minor, may delegate to another person for:

(1) any period during which the care and custody of the protected person is entrusted to an institution furnishing care, custody, education, training; or

(2) a period not exceeding sixty (60) days during which the parent or guardian is physically incapacitated or absent from the parent's or guardian's residence;

any powers regarding support, custody, or property of the protected person, except the power to consent to the marriage or adoption of a protected person who is a minor.

(b) A person having a power of attorney executed under subsection (a) has and shall exercise, for the period during which the power is effective, all other authority of the parent or guardian respecting the support, custody, or property of the protected person except any authority expressly excluded in the written instrument delegating the power. However, the parent or guardian remains responsible for any act or omission of the person having the power of attorney with respect to the affairs, property, and person of the protected person as though the power of attorney had never been executed.

*As added by P.L.169-1988, SEC.1. Amended by P.L.33-1989, SEC.75.*

#### **IC 29-3-9-2**

##### **Change in physical presence of protected person**

Sec. 2. A guardian (other than a temporary guardian) or volunteer advocate for seniors appointed under IC 29-3-8.5 may, with the approval of and under such conditions as may be imposed by the court after notice and hearing, change the physical presence of the protected person to another place in Indiana or to another state if the court finds that such a change is in the best interests of the protected person. Upon such a change, the guardianship may be limited or terminated by the court.

*As added by P.L.169-1988, SEC.1. Amended by P.L.41-2004, SEC.3.*

#### **IC 29-3-9-3**

##### **Compensation and reimbursement of guardian**

Sec. 3. A guardian is entitled to reasonable compensation for services as guardian and to reimbursement for reasonable expenditures made in good faith on behalf of the protected person.

*As added by P.L.169-1988, SEC.1.*

#### **IC 29-3-9-4**

**Estate planning; disposition of protected person's assets; renunciation or disclaimer of interests**

Sec. 4. (a) Upon petition of the guardian (other than a temporary guardian) or any other person as approved by the court, and after notice to such persons as the court may direct, the court may, after hearing and by order, authorize the guardian to apply or dispose of the principal or income of the estate of the protected person that the court determines to be in excess of that likely to be required for the protected person's future support or for the future support of the protected person's dependents during the lifetime of the protected person, in order to carry out the estate planning that the court determines to be appropriate for the purposes of minimizing current and prospective income, estate, or other taxes. The court may accordingly authorize the guardian to make gifts, outright or in trust, on behalf of the protected person to or for the benefit of the prospective legatees, devisees, or heirs, including any person serving as the protected person's guardian, or to other individuals or charities, to whom or in which it is shown that the protected person had an interest. In addition, the court may also authorize the guardian to:

- (1) apply or dispose of the excess principal or income for any other purpose the court decides is in the best interests of the protected person or the protected person's property, spouse, or family;
- (2) exercise or waive the right of the protected person to renounce or disclaim any interest in whole or in part devolving by testate or intestate succession or by inter vivos transfer, including the right of the protected person to surrender the right to revoke a revocable trust; or
- (3) exercise or release any power of appointment that is vested in the protected person.

(b) In a hearing upon a petition filed under subsection (a), the court shall determine whether the planned disposition, renunciation, disclaimer, release, or exercise is consistent with the apparent intention of the protected person, which determination shall be made on the basis of evidence as to the declarations, practices, or conduct of the protected person or, in the absence of that type of evidence, upon the court's determination as to what a reasonable and prudent person would do under the same or similar circumstances as are shown by the evidence presented to the court.

(c) The guardian may examine the will of the protected person.  
*As added by P.L.169-1988, SEC.1.*

**IC 29-3-9-5**

**Inventory of guardianship property**

Sec. 5. (a) Within ninety (90) days after appointment, a guardian (other than a temporary guardian) shall file with the court a complete inventory of the property subject to the guardian's control together with an oath or affirmation that the inventory is believed to be complete and accurate as far as information permits. A temporary

guardian shall file the inventory and oath or affirmation with the court within thirty (30) days after appointment. The inventory must conform to the requirements of IC 29-1-12-1. The guardian shall provide a copy of the inventory to the protected person if the protected person is at least fourteen (14) years of age. A copy also shall be provided to any guardian, parent, or person with whom the protected person resides and any other person ordered by the court. In addition, the guardian shall provide notice of the filing of the inventory to each person that was required to be notified of the hearing on the petition to establish the guardianship. The notice must be provided in the same manner as the notice of the hearing to establish a guardianship. The notice must include all of the following:

(1) The cause number.

(2) A statement that Indiana law requires a guardian to file with the court a written verified account of the guardian's administration:

(A) at least biennially, not more than thirty (30) days after the anniversary date of the guardian's appointment; and

(B) not more than thirty (30) days after the termination of the appointment.

(3) A statement that the inventory and the written verified accounts may be inspected at the court's address.

(b) The guardian shall keep suitable records of the guardian's administration and exhibit the records as ordered by the court.

*As added by P.L.169-1988, SEC.1. Amended by P.L.265-1995, SEC.1.*

### **IC 29-3-9-6**

**Account of administration; filing with court; notice of hearing on account; order of discharge; limitation of actions against sureties**

Sec. 6. (a) Unless otherwise directed by the court, a guardian (other than a temporary guardian) shall file with the court:

(1) at least biennially, not more than thirty (30) days after the anniversary date of the guardian's appointment; and

(2) not more than thirty (30) days after the termination of the appointment;

a written verified account of the guardian's administration.

(b) A temporary guardian shall file with the court, within thirty (30) days after the termination of the temporary guardian's appointment, and otherwise as ordered by the court, a written verified account of the temporary guardian's administration.

(c) A written verified account required under this section must include the incapacitated person's or minor's current residence and a description of the condition and circumstances of the incapacitated person or minor.

(d) Notice of the hearing of each account of a guardianship shall be given, unless waived, to the following:

(1) The protected person.

(2) In the case of a protected person who has died, the personal

representative of the estate of the protected person, if any.

(3) Any other persons that the court directs.

(e) When an account other than an account in final settlement is filed, the court may approve the same ex parte, but the account may be reviewed by the court at any subsequent time and does not become final until an account in final settlement is approved by the court after notice and hearing.

(f) When notice of hearing has been given under this section, the order of the court approving the intermediate account or the final account is binding upon all persons.

(g) When a guardian files with the court proper receipts or other evidence satisfactory to the court showing that the guardian has delivered to the appropriate persons all the property for which the guardian is accountable as guardian, the court shall enter an order of discharge. The order of discharge operates as a release from the duties of the guardian's office that have not yet terminated and operates as a bar to any suit against the guardian and the guardian's sureties, unless the suit is commenced within one (1) year from the date of the discharge.

*As added by P.L.169-1988, SEC.1. Amended by P.L.33-1989, SEC.76.*

#### **IC 29-3-9-6.5**

##### **Accounting standards and procedures**

Sec. 6.5. (a) This section applies to an accounting described under section 6 of this chapter that is filed:

(1) in a court that requires an accounting; and

(2) by a guardian for a protected person:

(A) whose:

(i) annual gross income is not more than one hundred eighty-five percent (185%) of the federal income poverty level as determined annually by the federal Office of Management and Budget under 42 U.S.C. 9902; and

(ii) total assets are worth fifteen thousand dollars (\$15,000) or less; or

(B) who has an annual gross income and total assets of any amount, if the guardian does not have powers concerning the estate of the protected person.

(b) The court shall establish standards for the type of information required to be reported in an accounting described in subsection (a).

(c) Except as provided in subsection (d), the accounting described in subsection (a) is not required to be filed by an attorney for the guardian.

(d) The court may order that the guardian hire an attorney to assist the guardian in filing the accounting described in subsection (a) if the court determines that an accounting filed by the guardian does not conform to the standards established by the court under this section.

*As added by P.L.265-1995, SEC.2.*

#### **IC 29-3-9-7**

**Compromise of claim; petition to court; settlement**

Sec. 7. (a) Whenever it is proposed to compromise any claim by or against a protected person or the protected person's property, the court, on petition of the guardian, may enter an order authorizing the compromise to be made if satisfied that the compromise will be in the best interest of the protected person.

(b) Whenever a minor has a disputed claim against another person, whether arising in contract, tort, or otherwise, and a guardian for the minor and the minor's property has not been appointed, the parents of the minor may compromise the claim. However, before the compromise is valid, it must be approved by the court upon filing of a petition requesting the court's approval. If the court approves the compromise, it may direct that the settlement be paid in accordance with IC 29-3-3-1. If IC 29-3-3-1 is not applicable, the court shall require that a guardian be appointed and that the settlement be delivered to the guardian upon the terms that the court directs.

*As added by P.L.169-1988, SEC.1.*

**IC 29-3-9-8****Supplementary orders**

Sec. 8. At any time after the appointment or issuance of a protective order, the court on its own motion or on the petition of the protected person or other person approved by the court, in addition to its authority under IC 29-3-8-8, may give the instructions and make the amendatory and supplementary orders that the court finds appropriate.

*As added by P.L.169-1988, SEC.1.*

**IC 29-3-9-9****Expenses of proceedings**

Sec. 9. (a) Whenever a guardian is appointed for an incapacitated person or minor, the guardian shall pay all expenses of the proceeding, including reasonable medical, professional, and attorney's fees, out of the property of the protected person.

(b) The expenses of any other proceeding under this article that results in benefit to the protected person or the protected person's property shall be paid from the protected person's property as approved by the court.

*As added by P.L.169-1988, SEC.1. Amended by P.L.33-1989, SEC.77.*

**IC 29-3-9-10****Attorney of record for guardian**

Sec. 10. The attorney of record for a guardian continues as such until the termination of the guardianship or the attorney's withdrawal, whichever occurs first, as approved by the court.

*As added by P.L.169-1988, SEC.1.*

**IC 29-3-9-11****Investigations concerning conditions and circumstances of**

**protected person**

Sec. 11. The division of family and children or county office of family and children shall investigate and report to the court concerning the conditions and circumstances of a minor or an alleged incapacitated person or protected person and the fitness and conduct of the guardian or the proposed guardian whenever ordered to do so by the court.

*As added by P.L.169-1988, SEC.1. Amended by P.L.33-1989, SEC.78; P.L.2-1992, SEC.794; P.L.4-1993, SEC.261; P.L.5-1993, SEC.274.*